

4-206. Summons.

SUMMONS	
District Court: THIRTEENTH JUDICIAL Sandoval County, New Mexico Court Address: 1500 Idalia Rd, Bldg A, P.O. Box 600 Bernalillo, NM 87004 Court Telephone No.: 505-867-2376	Case Number: D-1329-CV-2018-01204 Assigned Judge: John F. Davis
MONICA TORRES Plaintiff, v. TOWN OF BERNALILLO, BERNALILLO POLICE DEPARTMENT, and CHIEF TOM ROMERO in his individual and representative capacity Defendants,	Defendant Address: Town of Bernalillo P.O. Box 638 Bernalillo, NM 87004

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
 2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
 3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
 4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
 5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
 6. If you need an interpreter, you must ask for one in writing.
 7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.
- Dated at Bernalillo, New Mexico, this 22nd day of June, 2018.

CLERK OF DISTRICT COURT

By: /s/ Candi Lucero
 Deputy



/s/ Joseph E. Campbell
Electronically signed

Joseph E. Campbell, Esq.
3 George Ct., Ste. C2
Edgewood, NM 87015
(505) 286-7800 Fax (505) 286-2411

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)
)ss
COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ county on the _____ day of _____, _____, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at _____ (insert defendant's last known mailing address) a copy of the summons and complaint.

☐ to _____ the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person).

[] to _____ (name of person), _____ (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Title (if any)

Subscribed and sworn to before me this _____ day of _____, 2

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.

2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

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☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at _____ (insert defendant's last known mailing address).

☐ to _____, an agent authorized to receive service of process for defendant _____.

☐ to _____, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant _____ (used when defendant is a minor or an incompetent person):

[] to _____ (name of person), _____, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Title (if any)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.

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STATE OF NEW MEXICO
COUNTY OF SANDOVAL
THIRTEENTH JUDICIAL DISTRICT COURT

MONICA TORRES

Plaintiff,

v.

No:

D-1329-CV-2018-01204

TOWN OF BERNALILLO,
BERNALILLO POLICE DEPARTMENT, and
CHIEF TOM ROMERO, in his individual and
representative capacity

Defendants

COMPLAINT FOR DAMAGES

I. JURISDICTION

1. COMES NOW Plaintiff, by and through her attorney, Joseph E. Campbell Esq., and brings this Complaint For Damages. This action is brought pursuant to NMSA § 28-1-13, NMRCF 1-076, the New Mexico Constitution, the New Mexico State Tort Claims Act, NMRA 1978 §§ 41-4-1 *et seq.*, and the laws of the State of New Mexico.

II. PARTIES

2. Plaintiff, Monica Torres is an adult individual residing in Santa Fe County, New Mexico. At all times relevant to this action Plaintiff, Monica Torres was employed by Defendant, Town of Bernalillo as a police officer for the Bernalillo Police Department.

3. Defendant, Town of Bernalillo, (hereafter Bernalillo) is a municipality and governmental entity within Sandoval County, New Mexico and maintains municipal offices at 829 Camino del Pueblo (P.O. Box 638) Bernalillo, NM 87004. At all times relevant to this action Edgewood operated the Edgewood Police Department

4. Defendant, ~~Town of Bernalillo Police Department~~ (hereafter ~~Police Department~~), is a located in Sandoval, New Mexico and is a governmental law enforcement entity and maintains offices at 739 Camino del Pueblo (P.O. Box 638) Bernalillo, NM 87004. At all time material to this action the Police Department employed Plaintiff Monica Torres and Defendant Chief Tom Romero.

5. Defendant Tom Romero (hereafter Chief Romero) is the Chief of Police of the Town of Bernalillo Police Department. At all times material to this action Chief Romero was the Chief of the Bernalillo Police Department and directly in charge of all of its employees, including Plaintiff Monica Torres.

III. FACTUAL BACKGROUND

6. Paragraphs 1 through 5 above are incorporated herein as if set forth at length.

7. Plaintiff Monica Torres has been employed with the Town of Bernalillo Police department since 2011.

8. On February 19, 2013 the Bernalillo Police Department implemented a "Limited Light Duty" policy, which included and specifically addressed pregnancy related leave.

9. On September 14, 2013 Plaintiff Monica Torres gave birth to her first child.

10. While pregnant Plaintiff Monica Torres utilized the Bernalillo Police Department's "limited light duty" policy.

11. While on limited light duty during her first pregnancy Plaintiff Monica Torres utilized thirty (30) hours of light duty and an additional twelve (12) weeks of paid leave as allowed by the Town's leave policy.

12. Defendant Tom Romero was hired by the Town of Bernalillo as Chief of Police in April of 2014.

13. In late 2014, Defendant ~~Chief Romero~~ learned that Plaintiff Monica Torres was planning on having a second child.

14. After learning that Plaintiff Monica Torres was planning a second child, Chief Romero undertook steps to discriminate against Plaintiff Torres.

15. On January 12, 2015, Defendant Chief Romero requested that the Governing Body of the Town of Bernalillo rescind the Police Department's "Limited Light Duty" Policy.

16. At the request of Defendant Chief Romero, Defendant the Town of Bernalillo, by and through the Governing Body, without discussion rescinded the Police Department's "Limited Light Duty" Policy at the Town Council meeting on January 12, 2015.

17. On January 26, 2015, again at the request of Defendant Chief Romero, Defendant the Town of Bernalillo, by and through the Governing Body, without discussion approved and put into effect a new "Limited Light Duty" Policy at the Town Council meeting on January 26, 2015.

18. The January 26, 2015 limited light duty policy did not make any allowances for pregnancies and did not mention pregnancies in any way.

19. The January 26, 2015 limited light duty policy did not address or take into account any E.E.O.C. or ADA guidelines as the prior "Limited Light Duty" Policy (3.16) did.

20. Defendant Town of Bernalillo also has established and adopted Personnel Rules and Regulations which apply to all Town employees.

21. The Town's Personnel Rules and Regulations supersede the Police Department's leave policies with the exception of the scheduling of vacation time.

22. On November 3, 2015, Monica Torres became pregnant with her second child.

23. After Monica Torres notified that Town that she was expecting her second child Defendant Chief Romero discriminated against Monica Torres because of her pregnancy.

24. After learning of Monica Torres' pregnancy Defendant Chief Romero denied her available training.

25. After learning of Monica Torres' pregnancy Defendant Chief Romero refused to maintain, fix and/or provide Monica Torres with proper equipment thereby making her job more difficult.

26. On January 26, 2016 Plaintiff Monica Torres requested a modified duty assignment due to pregnancy.

27. In violation of the Town's Personnel Rules and Regulations Defendant Chief Romero informed Monica Torres that following her 12 weeks of modified duty she would be required to take FMLA leave without pay.

28. Additionally, in violation of the Town's Personnel Rules and Regulations Defendant Chief Romero informed Monica Torres that she would be required to use all of her accrued paid leave during her FMLA leave period.

29. Also, in violation of the Town's Personnel Rules and Regulations Defendant Chief Romero informed Monica Torres that her position would not be held open during her period of FMLA leave.

COUNT 1 – GENDER DISCRIMINATION

30. Paragraphs 1 through 29 are incorporated herein as if set forth at length.

31. At all times material hereto Plaintiff Monica Torres was an employee of Defendant Town of Bernalillo Police Department.

32. At all times material hereto Defendant Town of Bernalillo had a duty to maintain a workplace free of gender based discrimination and disparate treatment based on gender.

33. Defendant failed to maintain a workplace free of gender based discrimination and disparate treatment based on gender.

34. Defendant Town of Bernalillo is directly responsible to Plaintiff under the doctrine of *respondeat superior* for the alleged acts of Defendant Chief Romero.

35. As a direct and proximate result of Defendant's actions, Plaintiff Monica Torres suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Monica Torres demands judgment in her favor and against Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 2 – NEGLIGENT HIRING, TRAINING AND SUPERVISION

36. Paragraphs 1 through 35 are incorporated herein as if set forth at length.

37. Defendant Town of Bernalillo through its public employees, negligently caused damages against Plaintiff Monica Torres due to their negligent hiring, training, and supervision of Defendant Chief Romero.

38. Defendant Chief Romero was not properly supervised and/or trained when he discriminated against Monica Torres.

39. Defendant Town of Bernalillo is directly and/or vicariously liable to Plaintiff for the actions of Defendant Chief Romero under the doctrine of *respondeat superior*.

40. As a direct and proximate result of the actions of Defendant Town of Bernalillo Plaintiff Monica Torres suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Monica Torres demands judgment in her favor and against Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

COUNT 3 – BREACH OF CONTRACT

41. Paragraphs 1 through 40 are incorporated herein as if set forth at length.

42. The Town of Bernalillo has developed and implemented personnel employment policies, including the Town's Personnel Rules and Regulations and the Bernalillo Police Department's Operating Policies.

43. The Bernalillo Personnel Rules and Regulations and the Bernalillo Police Department's Operating Policies sets out Town's duties and responsibilities concerning the following of equal employment opportunity laws and regulations.

44. The Town's Personnel Rules and Regulations constitutes an implied employment contract between the Town of Bernalillo and Monica Torres as it "controlled the employer-employee relationship".

45. Monica Torres reasonably expected the Town to conform to the procedures in the Town's Personnel Rules and Regulations.

46. The Town of Bernalillo had a duty to follow the Town's Personnel Rules and Regulations.

47. The Town failed to adhere to the Town's Personnel Rules and Regulations.

48. ~~Defendant Town of Bernalillo is directly responsible to Plaintiff under the~~
doctrine of *respondeat superior* for the alleged acts of Defendant Chief Romero.

49. As a direct and proximate result of Defendant's actions, Plaintiff Monica Torres suffered and continues to suffer compensatory damages and emotional distress.

WHEREFORE, Plaintiff Monica Torres demands judgment in her favor and against Defendants, jointly and/or severally, and an award for compensatory damages together with costs of suit and attorney's fees, and such other relief as may be just and proper under the circumstances of this case.

Respectfully submitted

\S\ Joseph E. CampBell, Esq.
Electronically Signed

JOSEPH E. CAMPBELL
Attorney for Plaintiff Monica Torres
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Edgewood, New Mexico 87015
(505) 286-7800
Fax (505) 286-2411